

that they had no room to give him ; but after reflection, the same person said that she could give him a room for the purpose of washing at that time, but that it was engaged by persons who were to arrive later. So it comes to this, that he was told that they could not give him a room to sleep in. Then his luggage is taken up to the room. The effect of what was said and done seems to me to be this : That he was to have a room in the hotel as a guest, but only for a time. Supposing that the people who were expected had not come, the manager of the hotel would never have thought of saying to plaintiff that he could not have the room for the night. His things were there and would have been allowed to remain there. There was a tacit understanding that his things were to be left in the room till the other people came. Then was the relationship of innkeeper and guest established between the plaintiff and the defendants at any time? There certainly was such a relationship, to my mind, while he was actually using the room. What other relationship could it be at that time? But it was argued that the relationship only lasted while he was washing and dressing, and then came to an end. That argument admits that the plaintiff was received as a guest into the hotel. It certainly is not the ordinary custom in hotels that a guest should carry his own luggage up or down the stairs. In this case the hotel servants carried his luggage up. If he he ceased to be a guest when he had finished using the room, why did they not carry his luggage down? It is said that he ought to have given them notice to do so. Why? If the defendants knew, when the plaintiff applied for a room, that he could only have it for the purpose of washing and dressing, what need was there for him to give any notice? Supposing that to have been the understanding, it would have been the manager's duty in the ordinary course to have told the porter that the room was only given to the plaintiff to wash and dress in, and that when he had washed and dressed, his things were to be fetched down. In that case, after the guest had had breakfast, if the things had not come down, the manager should have sent up for them. There was no new

contract entered into with reference to the plaintiff's luggage after the plaintiff had left the room ; nor indeed was there any contract made at any time, except such as necessarily arose out of the relationship of innkeeper and guest. The plaintiff was therefore a guest at all events up to the time when his things were taken out of the room. What is an innkeeper bound to do with respect to a guest's luggage? He is bound to keep it safely. If a guest's property is lost while it is in an inn, the innkeeper is *prima facie* liable. But the innkeeper can get rid of that *prima facie* case if he shows that the goods were lost by the negligence of the guest. The onus of proof of that is upon him. I think that in this case the defendants did prove that the plaintiff was guilty of negligence in leaving his jewellery in an unlocked drawer of his dressing case which he had taken out of his bag ; and if they had also proved that the goods were lost in the room, then they could have shown that the goods were lost by the negligence of the plaintiff. But the defendants, through their servants, cut themselves off from the possibility of proving that by turning the things out into the corridor. What happened was, that the parties to whom the room was let arrived ; that they are taken up to the room by a page boy, who finds the plaintiff's things there ; that he asks what to do with them, and is told by the head porter to put them out in the corridor ; and that he puts them out in the corridor just as they were, with the dressing case outside the bag. There can be no doubt that this was gross negligence on the part of the porter and the page boy. The defendants therefore could not prove that the things were lost while they were in the room. It is just as likely that they were lost in the corridor. The effect of their being stolen in the corridor and not in the room is, that the loss then is the result of the negligence of the defendants' servants in placing the things there, and not of the negligence of the plaintiff in leaving his things about. It is like the case of the donkey left carelessly in the road and run over when it could have been avoided. The fact that the plaintiff had been negligent did not entitle the defendants' servants to be negligent afterward. The matter therefore